

**KUTAK ROCK LLP**

**THE THREE SISTERS BUILDING  
214 WEST DICKSON STREET**

**FAYETTEVILLE, ARKANSAS 72701-5221**

**479-973-4200**

**FACSIMILE 479-973-0007**

**www.kutakrock.com**

**LITTLE ROCK OFFICE**

**SUITE 2000**

**124 WEST CAPITOL AVENUE**

**LITTLE ROCK, ARKANSAS 72201-3706**

**501-975-3000**

**ROBERT W. GEORGE**  
robert.george@kutakrock.com  
(479) 973-4200

June 25, 2007

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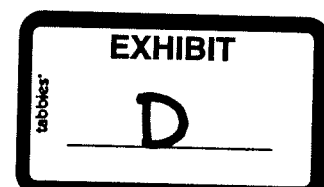
John Trevor Hammons  
Assistant Attorney General  
313 N.E. 21st Street  
Oklahoma City, OK 73105

Re: State of Oklahoma v. Tyson Foods, Inc. et al.

Dear Mr. Hammons:

Less than two weeks prior to the court-ordered deadline to produce ESI in this case, the Tyson Defendants were informed for the first time in your letter to all counsel dated June 21, 2007 that the State of Oklahoma "desires" to receive a "native format" production with metadata from the Tyson Defendants. Over the last six months, the parties have conferred numerous times regarding the discovery of ESI. During those meetings and conferences we asked counsel for the State if they had a preference for the format of ESI productions. In response, we were told "it depends" and with respect to e-mail, "we don't know yet." Your statement that "the state has previously expressed and continues to express a desire to obtain and produce ESI in its native format" is not accurate as it relates to the Tyson Defendants. Moreover, this spring, counsel for the Tyson Defendants worked directly with Mr. Garren on generating specific reports from Tyson databases. Mr. Garren made no request for metadata or that ESI be produced in native format. Therefore, we produced that information in TIFF format. (See April 17, 2007 production from the Tyson Defendants to the State). Counsel for the State has received ESI produced by the Tyson Defendants from the inception of this case in TIFF format and has made no objection to its production format nor has it requested metadata or native format prior to your letter of June 21, 2007.

Making this request less than two weeks before the court-ordered deadline is unacceptable. We presented this issue months ago and got no answer from the State's counsel. As you know, the production of ESI, just like all productions, is a process which takes time and in an effort to meet the court-ordered deadline. That process was set in motion long ago. It is essentially complete and significant costs have been incurred. As a result, the Tyson Defendants will be producing additional responsive ESI in TIFF format on July 2, 2007. The Tyson Defendants' upcoming production includes e-mail, Microsoft Word and Excel documents, PowerPoint presentations and imaged documents in TIFF format. If the State, after review of



**KUTAK ROCK LLP**

John Trevor Hammons  
June 25, 2007  
Page 2

any documents produced in this case by the Tyson Defendants, desires to have a particular document produced in its native format and is willing to demonstrate a particularized need for production of specific ESI in native format, the Tyson Defendants will certainly engage in good faith discussions regarding that production. The Tyson Defendants have and will continue to preserve the integrity of ESI produced in this case.

Your letter also states "[t]he State has asked the Defendants to provide information on the types of ESI they intend to produce in response to the State's discovery requests and the format of the those productions. To date, only a few of the Defendants have provided the State with information on these subjects and the information is not complete." Further, you have alleged that the Tyson Defendants "have not provided sufficient information to the State identifying ESI that is not readily accessible." These statements are plainly inaccurate. On January 6, 2007, in accordance with the Court's Order Implementing Rules of Discovery of Electronically Stored Information ("ESI") [Dkt. 996], counsel for the Tyson Defendants traveled to Tulsa and met with counsel for the State at Mr. Garren's office for what we believed would be a meeting in which counsel for both the State and the Tyson Defendants would discuss the subjects set forth in the Court's order. Much to the disappointment of counsel for the Tyson Defendants, counsel for the State was unprepared and did not discuss the topics set forth in the Court's order. Counsel for the Tyson Defendants discussed each topic identified in the Court's order including the format of production and ESI that is not readily accessible. We also answered all questions posed by counsel for the State during that meeting. Counsel for the State never contacted counsel for the Tyson Defendants and advised that the information provided on January 6, 2007 was "not complete".

It is difficult to understand why the State believes that metadata and native file production should be the default standard in this case. If one weighs the critical issues regarding authentication, manipulation, bates numbering, confidentiality, privilege and redactions with the State's desire to receive and produce metadata and native files we think the former considerations clearly outweigh the latter based on the nature of this action. All that aside, the State's request for native file production with metadata is clearly untimely with respect to the Tyson Defendants. As such, we will be producing ESI on July 2<sup>nd</sup> in TIFF format as we have done throughout this matter.

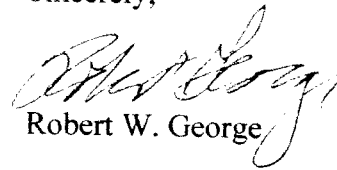
With regard to the State's ESI production, we have previously requested that the State's ESI production be in TIFF format. Despite that request, it is our understanding that the State has elected to produce ESI in an unbatesnumbered native format production. The State's refusal to bates number large parts of its document production in this case has severely compromised the ability of the State to specifically identify documents responsive to individual defendant's discovery requests as required by the Federal Rules. Regardless of the format of production of the State's ESI, the Tyson Defendants will require the State to specifically identify ESI responsive to the Tyson Defendants' discovery requests. In that regard, enclosed herewith please find a hard drive upon which we request you load only ESI which is responsive to the Tyson

**KUTAK ROCK LLP**

John Trevor Hammons  
June 25, 2007  
Page 3

Defendants' discovery requests. We look forward to the timely receipt of the State's ESI production.

Sincerely,



Robert W. George

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Enclosure